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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,988	11/14/2005	Francesco Tisato	57708/400	2660
35743 7590 08/17/2007 KRAMER LEVIN NAFTALIS & FRANKEL LLP INTELLECTUAL PROPERTY DEPARTMENT 1177 AVENUE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER PERREIRA, MELISSA JEAN	
			ART UNIT 1618	PAPER NUMBER
			NOTIFICATION DATE 08/17/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

klpatent@kramerlevin.com

Office Action Summary	Application No. 10/533,988	Applicant(s) TISATO ET AL.	
	Examiner Melissa Perreira	Art Unit 1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/26/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-18 are pending in the application. Any objections and/or rejections from previous office actions that have not been reiterated in this office action are obviated.

Response to Arguments

1. Applicant's arguments filed 3/26/07 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3,6-8 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archer et al. (5,589,576) in view of Duatti et al. (US 6,270,745) as stated in the office action mailed 12/8/06.
4. Applicant asserts that Archer et al. does not suggest the specific replacement of the monodentate phosphine donors in the compounds of formula $[Tc=NR(Cl)_3(PPH_3)_2]$ with a tridentate ligand and the addition of a bidentate ligand in order to improve the stability of the Tc-imido complexes.
5. The reference of Archer et al. does teach of the replacement of the monodentate phosphine donors for the diazenido compounds see example 18. The replacement of the monodentate phosphine ligands PPH_3 for multidentate dppe ligands is disclosed.

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Archer et al. also discloses that the incorporation of the diazenido- (and imido-) cores may be incorporated into a wide variety of complex types. It would be obvious to also try the replacement of the monodentate phosphine ligands PPH_3 of formula $[\text{Tc}=\text{NR}(\text{Cl})_3(\text{PPH}_3)_2]$ for multidentate ligands, such as dppe or those found in table 1 as the phosphine ligands are known to be labile and easily substituted to generate complexes like those of the diazenido cores.

6. The reference of Archer et al. was not utilized to teach of the addition of a bidentate ligand. The reference of Duatti et al. was used to teach the addition of a bidentate ligand. The oxidation states of the $\text{Tc}=\text{N}$ and the nitride core are +5 (Archer et al. column 1, lines 50-51; Duatti et al. column 2, lines 19-20) and it would be obvious that similar substitutions can be accomplished on cores of the same oxidation state. Duatti et al. teaches substituting the exchangeable chlorine or hydroxyl atoms (in acidic solutions; column 8, lines 14-15) found in the formula $[(\text{Tc}\equiv\text{N})\text{Cl}_3(\text{X})]_{\text{int}}$ (where X is a tridentate ligand) with the bidentate ligand. It would be obvious to try substituting the exchangeable chlorine atoms of the product obtained by Archer et al. after replacement with multidentate ligands.

7. Applicant asserts that Duatti et al. does not teach or suggest that such ligands could successfully coordinate with imido-metals.

8. Duatti et al. teaches substituting the exchangeable chlorine or hydroxyl atoms (in acidic solutions; column 8, lines 14-15) found in the formula $[(\text{Tc}\equiv\text{N})\text{Cl}_3(\text{X})]_{\text{int}}$ (where X is a tridentate ligand) with the bidentate ligand. It would be obvious to try substituting the

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exchangeable chlorine atoms of the product obtained by Archer et al. after replacement with multidentate ligands as well as that stated above.

Conclusion

No claims are allowed at this time. Claims 4,5,9 and 10 are not supported in the prior art. Claims 4,5,9 and 10 are objected to as being dependent upon a rejected base claims.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Perreira whose telephone number is 571-272-1354. The examiner can normally be reached on 9am-5pm M-F.

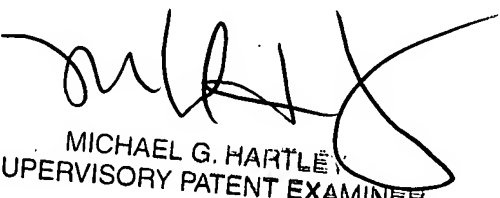
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MP

August 8, 2007



MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER